

United States District Court

Northern District of California

UNITED STATES OF AMERICA
v.
MYOGENIX CORPORATION

JUDGMENT IN A CRIMINAL CASE
 (For Organizational Defendants)

Case Number: CR-12-00758-DLJ

Richard Collins, Retained
 Defendant Organization's Attorney

THE DEFENDANT ORGANIZATION:

- ☒ pleaded guilty to Count: One (1) of the Information.
- ☐ pleaded nolo contendere to count(s) ___ which was accepted by the court.
- ☐ was found guilty on count(s) ___ after a plea of not guilty.

The organizational defendant is adjudicated guilty of these offense(s).

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
21 U.S.C. §§ 331(d) and 333(a)(2)	Introduction and Delivery of Unapproved New Drugs Into Interstate Commerce With Intent to Defraud and Mislead	July 2009	1

The defendant organization is sentenced as provided in pages 2 through 3 of this judgment.

- ☐ The defendant organization has been found not guilty on count(s) ___.
- ☐ Count(s) ___ (is)(are) dismissed on the motion of the United States.

IT IS ORDERED that the defendant organization must notify the United States attorney for this district within 30 days of any change of name, principal business address, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant organization shall notify the court and United States attorney of material changes in economic circumstances.

Defendant Organization's Federal Employer I.D.:
 22-3893996

Defendant Organization's Principal Business Address:
 2309 A Street
 Santa Maria, CA 93456

Defendant Organization's Mailing Address:
 Same as Above

November 15, 2012

Date of Imposition of Judgment

Signature of Judicial Officer

Honorable D. Lowell Jensen, U. S. District Judge
 Name & Title of Judicial Officer

12/6/12

Date

DEFENDANT: MYOGENIX CORPORATION
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CRIMINAL MONETARY PENALTIES

The defendant organization must pay the following total criminal monetary penalties under the schedule of payments set forth in this judgment.

	<u>Assessment</u>	<u>Fine</u>	<u>Criminal Forfeiture</u>
Totals:	\$ 400.00	\$ 50,000.00	\$ 100,000.00

☐ The determination of restitution is deferred until __. *An Amended Judgment in a Criminal Case* (AO 245C) will be entered after such determination.

☐ The defendant organization shall make restitution (including community restitution) to the following payees in the amounts listed below.

If the defendant organization makes a partial payment, each payee shall receive an approximately proportional payment unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
<u>Totals:</u>	\$ _	\$ _	

☐ Restitution amount ordered pursuant to plea agreement \$ _

☐ The defendant organization shall pay interest on restitution or a fine of more than \$2,500, unless the fine or restitution is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on the Schedule of Payment Page, Part B may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

☐ The court determined that the defendant organization does not have the ability to pay interest, and it is ordered that:

☐ the interest requirement is waived for the ☐ fine ☐ restitution.

☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

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SCHEDULE OF PAYMENTS

Having assessed the organization's ability to pay, payment of the total criminal monetary penalties are due as follows:

- A ☒ Lump sum payment of **\$400.00** due immediately, balance due
- ☐ not later than ____, or
- ☐ in accordance with () C, or () D; or
- B ☒ Payment to begin immediately (may be combined with () C, or (x) D below); or
- C ☐ Payment in ____ (e.g. equal, weekly, monthly, quarterly) installments of \$ _ over a period of ____ (e.g., months or years), to commence _ (e.g., 30 or 60 days) after the date of this judgment; or
- D ☒ Special instructions regarding the payment of criminal monetary penalties:
A criminal forfeiture in the amount of \$100,000.00, due at the time of sentencing, payable to the Food and Drug Administration, Office of Criminal Investigation; a fine of \$50,000, payable pursuant to a schedule agreed upon by the parties.

All criminal monetary penalties are made to the Clerk of Court, U.S. District Court, 450 Golden Gate Avenue, San Francisco, CA 94102.

The defendant organization shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☐ Joint and Several

Case Number Defendant and Co- Defendant Names (including Defendant Number)	<u>Total Amount</u>	Joint and Several <u>Amount</u>	Corresponding Payee, <u>if appropriate</u>
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☐ The defendant organization shall pay the cost of prosecution.

☐ The defendant organization shall pay the following court cost(s):

☐ The defendant organization shall forfeit the defendant organization's interest in the following property to the United States: